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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 IN RE: TFT-LCD (FLAT PANEL) ANTITRUST
9 LITIGATION

No. M 07-1827 SI

MDL. No. 1827

10 This Order Relates to:

11 Indirect Purchaser Plaintiffs' Class
12 Action

**ORDER APPOINTING RETIRED JUDGE
DANIEL WEINSTEIN AS SPECIAL
MASTER**

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14 By order filed November 15, 2010, the Court gave all parties to the indirect purchaser plaintiff
15 class action notice of its intent to appoint retired Judge Daniel Weinstein as a special master. The order
16 stated that the scope of Judge Weinstein's appointment would be limited to reviewing the indirect
17 purchaser plaintiffs' proposed settlements with defendants Chunghwa Picture Tubes and Epson Imaging
18 Devices Corporation, and making a recommendation to the Court regarding approval of those
19 settlements. All parties to the indirect purchaser plaintiffs' class action who are involved in the
20 settlements have consented to the appointment of Judge Weinstein. Pursuant to Rule 53(a)(2) and
21 53(b)(3), Judge Weinstein has filed an affidavit with this Court that states that he has no relationship to
22 the parties, counsel, action, or Court that would require disqualification of a judge under 28 U.S.C.
23 § 455.

24 On November 17, 2010, the Attorneys General for the intervening states of Illinois, Oregon and
25 Washington filed a letter objecting to the appointment of Judge Weinstein. However, the states of
26 Illinois, Oregon and Washington are permissive intervenors under Rule 24(b)(2), and not "parties" to
27 the indirect purchaser class action who have the right under Rule 53 to object to the appointment of
28 Judge Weinstein. Nevertheless, the Court has carefully considered the issues raised by the States, and

1 concludes that the fairest and most effective way to have the States' concerns about the proposed
2 settlements fully evaluated is to appoint a special master to review the settlements and make a
3 recommendation to the Court regarding whether the proposed settlements should be approved. The
4 Court emphasizes that the Court, and not the Special Master, will make the ultimate decision on whether
5 to approve the settlements.

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7 **I. Scope of authority**

8 Accordingly, pursuant to Federal Rule of Civil Procedure 53 the Court hereby appoints retired
9 Judge Daniel Weinstein as Special Master to assist the Court in this litigation. The scope of Judge
10 Weinstein's appointment is limited to reviewing the indirect purchaser plaintiffs' settlements with
11 defendants Chunghwa Picture Tubes and Epson Imaging Devices Corporation, meeting with the parties
12 and intervenors regarding those settlements and the objections thereto, overseeing further settlement
13 negotiations if necessary, and ultimately making a recommendation to the Court regarding whether the
14 proposed settlements should be approved. In conducting his duties as Special Master, Judge Weinstein
15 shall consult with the States, including the three state intervenors, in whatever manner he considers most
16 effective.

17 The Special Master shall have the authority to set the date, time and place for meetings and
18 telephone conferences, to compel attendance at such meetings and telephone conferences, and to require
19 the parties to submit information to him. The Special Master is authorized to receive and consider
20 information designated as confidential pursuant to the Protective Order entered in this matter. The
21 Special Master shall be bound by said Protective Order. Settlement communications between the
22 Special Master, the parties, and the intervenors shall be confidential and shall not be communicated to
23 the Court. The Special Master shall maintain such records and materials as he deems necessary.

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25 **II. Compensation**

26 Pursuant to Rule 53(b)(2)(E) and 53(g), the Special Master shall be compensated at an hourly
27 rate of \$850 per hour for his services as Special Master in these proceedings, plus the Administrative
28 Fee charged by JAMS, and shall be reimbursed for any out-of-pocket expenses (e.g., expenses for

1 telephone conference calls). The Special Master shall not charge for travel time. Judge Weinstein shall
2 prepare a monthly invoice for his services, which he shall provide to liaison counsel for the indirect
3 purchaser plaintiffs, and counsel for Chunghwa Picture Tubes and Epson Imaging Devices Corporation.
4 The indirect purchaser plaintiffs and defendants Chunghwa and Epson shall each pay half of the monthly
5 invoice, unless the Special Master or the Court directs otherwise. Counsel shall be responsible for
6 promptly forwarding payment of the Special Master's invoice.


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8 **III. Special Master's Recommendation**

9 Pursuant to Rule 53(e), at the conclusion of his review of the proposed settlements, Judge
10 Weinstein shall file a written recommendation to the Court regarding whether those settlements should
11 be approved. Any party or intervenor wishing to file objections to or a motion to adopt or modify the
12 Special Master's recommendations must file such objections or motion with the Court within 14 days
13 from the day the Special Master filed his recommendation via ECF.

14 Pursuant to Rule 53(f)(3)-(5), the Court shall review findings of fact made or recommended by
15 the Special Master for clear error. The Court shall review *de novo* any conclusions of law made or
16 recommended by the Special Master. Pursuant to Rule 53(f)(1), in acting on a recommendation of the
17 Special Master, the Court shall afford the parties an opportunity to present their positions and, in its
18 discretion, may receive evidence, and may adopt or affirm; modify; wholly or partly reject or reverse;
19 resubmit to the Special Master with instructions; or make any further orders it deems appropriate.

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21 **IT IS SO ORDERED.**

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23 Dated: December 1, 2010

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25 SUSAN ILLSTON
26 United States District Judge
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